

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS ALONZO CARBAJAL-RODRIGUEZ,

Defendant.

8:14CR167

ORDER

This matter is before the court on the Petition for Action on Conditions of Pretrial Release (Petition) regarding defendant Luis Alonzo Carbajal-Rodriguez (Carbajal-Rodriguez) (Filing No. 27). Carbajal-Rodriguez was ordered released upon conditions pending further proceedings on May 19, 2014 (Filing No. 9). Carbajal-Rodriguez was to reside in Omaha, Nebraska, and abide by other conditions of release. On July 14, 2014, Pretrial Services Officer Assistant Quintin Erdman submitted a Petition alleging Carbajal-Rodriguez had violated the conditions of his release by failing to report to Pretrial Services his contact with law enforcement, by committing a violation of state law by assaulting Maria Miranda, and by consuming alcoholic beverages. A warrant for Carbajal-Rodriguez's arrest was issued.

Carbajal-Rodriguez appeared before the court on October 20, 2014. He was represented by Thomas L. Niklitschek. The United States was represented by Assistant U.S. Attorney Donald J. Kleine. Laura Garcia-Hein, a certified interpreter in the Spanish language, served as the interpreter. After being advised of the nature of the allegations, his rights, and the consequences if the allegations were found to be true, Carbajal-Rodriguez denied the allegations. A hearing was scheduled for October 23, 2014.

On October 23, 2014, Carbajal-Rodriguez again appeared before the court. He was represented by Thomas L. Niklitschek. The United States was represented by Assistant U.S. Attorney Michael P. Norris. Laura Garcia-Hein, a certified interpreter in the Spanish language, served as the interpreter. The court took judicial notice of the Amended Pretrial Services Violation Report (Filing No. 39), received into evidence photos taken by the police officers at the scene, and heard the testimony of Maria Miranda and A. Bellarmino Franco. The court finds the allegations of the petition are generally true and Carbajal-Rodriguez has violated the conditions of his release.

After providing both parties an opportunity for allocution as to disposition and considering the report of Pretrial Services, I find the Order Setting Conditions of Release should be revoked. Carbajal-Rodriguez has demonstrated he is unable to comply with rules of his release.

IT IS ORDERED:

1. The Petition For Action on Conditions of Pretrial Release (Filing No. 27) is granted.
2. The Order Setting Conditions of Release of Luis Alonzo Carbajal-Rodriguez (Filing No. 9) is hereby revoked.
3. The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 23rd day of October, 2014.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge